

REPORT OF THE COMMITTEE ON ZONING, PLANNING AND HOUSING

Voting Members:

Ron Menor, Chair; Tommy Waters, Vice-Chair;
Brandon J.C. Elefante, Ann H. Kobayashi, Joey Manahan

Committee Meeting Held
February 27, 2020

Honorable Ikaika Anderson
Chair, City Council
City and County of Honolulu

Mr. Chair:

Your Committee on Zoning, Planning and Housing, which considered Bill 28 (2019), CD1, entitled:

**"A BILL FOR AN ORDINANCE RELATING TO AFFORDABLE HOUSING
INCENTIVES,"**

which passed Second Reading and was the subject of a Public Hearing held at the Council meeting of November 6, 2019, reports as follows:

The purpose of Bill 28 (2019), CD1, is to amend the affordable housing incentives enacted by Ordinance 18-1, as amended by Ordinance 19-8.

At your Committee's meeting on February 27, 2020, the Acting Director of the Department of Planning & Permitting ("DPP") stated that the DPP has difficulty supporting a bill that would provide financial incentives to construct affordable dwelling units, but would not impose an affordability period on those affordable dwelling units. The DPP Acting Director stated that this would allow an affordable unit to be resold at a higher price the day after it was initially sold. One individual offered comments on the Bill.

Your Committee prepared a CD2 version of the Bill that makes the following amendments:

- A. Deletes SECTION 2 of the Bill, which would have provided a real property tax exemption for any incremental increase in the valuation of the real property

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON **MAY 20 2020**

COMMITTEE REPORT NO. **97**

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Committee Meeting Held
February 27, 2020
Page 2

primarily attributable to qualifying construction work where at least 75 percent of the total number of dwelling units in the development are sold to households earning 120 percent and below of the AMI.

- B. Adds new SECTIONS 2 and 4 to the Bill, which would add new sections to ROH Chapters 14 ("Public Works Infrastructure Requirements Including Fees and Services") and 18 ("Fees and Permits for Building, Electrical, Plumbing and Sidewalk Codes"), respectively, to provide for a new process whereby the developer of an affordable housing project that seeks applicable exemptions or waivers of fees or charges is required to execute a development agreement recorded with the bureau of conveyances providing a description of the proposed project and the percentage of the project units to be sold to households earning 100 percent or less of the AMI. The new sections also require the developer, prior to being issued a certificate of occupancy for the project, to submit to the Department of Planning and Permitting a schedule of all housing units in the project indicating the actual sales price, buyer income group, and percentage of units sold to households earning 100 percent or less of the AMI. The new sections also provide for administrative enforcement provisions. Renumbers subsequent SECTIONS accordingly.
- C. Amends renumbered SECTIONS 3 and 5, which relate to the waiver of wastewater system facility charges, and waiver of plan review and building permit fees, respectively, for qualifying affordable housing projects, to provide that such exemptions or waivers are applicable to the residential portion of the dwelling units that are sold to households earning 100 percent and below of the AMI in developments for which at least 75 percent of the total number of dwelling units in the development area sold to households earning 120 percent and below of the AMI.

CITY COUNCIL
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Committee Meeting Held
February 27, 2020
Page 3

- D. Amends renumbered SECTION 6 (Ramseyer clause) to reflect the amendments made by the CD2.
- E. Amends renumbered SECTION 7 to provide that the ordinance takes effect upon its approval and will be repealed one year after its effective date.
- F. Makes miscellaneous technical and nonsubstantive amendments.

Your Committee on Zoning, Planning and Housing is in accord with the intent and purpose of Bill 28 (2019), CD1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as Bill 28 (2019), CD2. (Ayes: Kobayashi, Manahan, Menor, Waters – 4; Ayes with reservations: Elefante – 1; Noes: None.)

Respectfully submitted,



Committee Chair

At the 5/20/20 Council meeting, the Bill was further amended and subsequently passed third reading as Bill 28 (2019), CD2, FD1.

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
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ADOPTED ON **MAY 20 2020**

COMMITTEE REPORT NO. **97**



A BILL FOR AN ORDINANCE

RELATING TO AFFORDABLE HOUSING INCENTIVES.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to amend the affordable housing incentives enacted by Ordinance 18-1, as amended by Ordinance 19-8.

SECTION 2. Chapter 14, Revised Ordinances of Honolulu 1990 ("Public works infrastructure requirements including fees and services"), is amended by adding a new section to be appropriately designated by the Revisor of Ordinances and to read as follows:

"Sec. 14-____. Development agreement required for projects seeking waivers of charges for affordable housing.

The developer of an affordable housing project, as defined by the department of planning and permitting by rule, that seeks waivers of charges related to the construction of affordable dwelling units shall execute a development agreement recorded with the bureau of conveyances (regular system) that at minimum provides a description of the proposed project and the percentage of the project units to be sold to households earning 100 percent or less of the AMI. A schedule of all units and proposed pricing shall be attached to the development agreement. For the purposes of this section, "AMI" means the current AMI determined by the United States Department of Housing and Urban Development annually for the Honolulu Metropolitan Statistical Area, as adjusted for household size.

Prior to the developer being issued a certificate of occupancy for the affordable housing project, the developer shall submit to the department of planning and permitting a schedule of all housing units in the project, including actual sales price, buyer income group, and percentage of affordable housing units in the project sold to households earning 100 percent or less of the AMI.

If the director of planning and permitting determines at any time that the developer is in violation of the development agreement, the violator will be subject to the administrative enforcement provisions of Section 21-2.150-2; provided that in addition to the civil fines specified in Section 21-2.150-2(b)(1)(C) and Section 21-2.150-2(b)(1)(D), the violator will be subject to penalties equal to the amount of wastewater system facility charges waived for the proportion of affordable units sold to households earning 100 percent or less of the AMI."



A BILL FOR AN ORDINANCE

SECTION 3. Section 14-10.____, Revised Ordinances of Honolulu 1990, ("Waiver of wastewater system facility charges for affordable dwelling units"), as enacted in SECTION 4 of Ordinance 18-1 and amended by SECTION 3 of Ordinance 19-8, is amended by amending subsection (a) to read as follows:

- "(a) Wastewater system facility charges, as set forth in Appendix 14-D of this chapter will be waived for the following:
- (1) Affordable dwelling units as defined in and as provided on-site or off-site pursuant to Chapter A;
 - (2) Affordable dwelling units provided pursuant to a planned development-transit permit pursuant to Section 21-9.100-10, or an interim planned development-transit permit pursuant to Section 21-9.100-5;
 - (3) Affordable rental dwelling units developed in compliance with HRS Section 201H-36(a)(5); ~~[or]~~
 - (4) Affordable rental housing units that are rented to households earning 100 percent and below of the AMI, and rented at or below the rental rate limits established by the United States Department of Housing and Urban Development for households earning 100 percent of the AMI for the applicable household size or less, pursuant to Chapter B~~[-]~~; or
 - (5) The residential portion of the dwelling units that are sold to households earning 100 percent and below of the AMI in developments for which at least 75 percent of the total number of dwelling units in the development are sold to households earning 120 percent and below of the AMI."

SECTION 4. Chapter 18, Revised Ordinances of Honolulu 1990 ("Fees and permits for building, electrical, plumbing and sidewalk codes"), is amended by adding a new section to be appropriately designated by the Revisor of Ordinances and to read as follows:

"Sec. 18-6. Development agreement required for projects seeking waivers of fees for affordable housing.

The developer of an affordable housing project, as defined by the department of planning and permitting by rule, that seeks waivers of fees related to the construction of



A BILL FOR AN ORDINANCE

affordable dwelling units shall execute a development agreement recorded with the bureau of conveyances (regular system) that at minimum provides a description of the proposed project and the percentage of the project units to be sold to households earning 100 percent or less of the AMI. A schedule of all units and proposed pricing shall be attached to the development agreement. For the purposes of this section, "AMI" means the current AMI determined by the United States Department of Housing and Urban Development annually for the Honolulu Metropolitan Statistical Area, as adjusted for household size.

Prior to the developer being issued a certificate of occupancy for the affordable housing project, the developer shall submit to the department of planning and permitting a schedule of all housing units in the project, including actual sales price, buyer income group, and percentage of affordable housing units in the project sold to households earning 100 percent or less of the AMI.

If the director of planning and permitting determines at any time that the developer is in violation of the development agreement, the violator will be subject to the administrative enforcement provisions of Section 21-2.150-2; provided that in addition to the civil fines specified in Section 21-2.150-2(b)(1)(C) and Section 21-2.150-2(b)(1)(D), the violator will be subject to penalties equal to the amount of plan review and building permit fees waived for the proportion of affordable units sold to households earning 100 percent or less of the AMI."

SECTION 5. Section 18-6.5, Revised Ordinances of Honolulu 1990, ("Exemptions"), as enacted in SECTION 4 of Ordinance 18-1, is amended by amending subsection (g) to read as follows:

- "(g) The building official shall waive the collection of the plan review and building permit fees for the residential portion of a project equal to:
- (1) The percentage of affordable dwelling units as defined in and as provided within the project pursuant to Chapter ~~[]~~ A; ~~[]~~
 - (2) The percentage of affordable dwelling units provided pursuant to a planned development-transit permit pursuant to Section 21-9.100-10, or an interim planned development-transit permit pursuant to Section 21-9.100-5~~[-]~~; or



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL 28 (2019), CD2

A BILL FOR AN ORDINANCE

- (3) The percentage of affordable dwelling units sold to households earning 100 percent and below of the AMI; provided that at least 75 percent of the dwelling units in the project are sold to households earning 120 and below of the AMI."

SECTION 6. Ordinance material to be repealed is bracketed and stricken. New material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the brackets, the material that has been bracketed and stricken, or the underscoring. In SECTIONS 3 and 5 of this ordinance, the Revisor of Ordinances shall, pursuant to the Revisor's authority under ROH Section 1-16.3(b):

- (1) Replace references to "Chapter A" with the appropriately designated chapter enacted by Ordinance 18-10;
- (2) Replace references to "Chapter B" with the appropriately designated chapter enacted by Ordinance 19-8; and
- (3) Replace references to "Section 8-10.Y" with the appropriately designated section enacted by SECTION 3 of Ordinance 18-1.



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CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL 28 (2019), CD2

A BILL FOR AN ORDINANCE

SECTION 7. Effective date; repeal.

This ordinance takes effect upon its approval and will be repealed one year after its effective date, provided that the amendments made by this ordinance and the repeal thereof do not affect the respective repeal dates of Ordinances 18-1 and 19-8.

INTRODUCED BY:

Ann Kobayashi

DATE OF INTRODUCTION:

May 29, 2019

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20 _____.

KIRK CALDWELL, Mayor
City and County of Honolulu